

## REMARKS

Applicant wishes to thank the Examiner for the courtesies extended during the teleconference with applicant's representative Mr. Knox, on November 6, 2006. The following is a summary of that teleconference and a response to the Advisory Action.

Claims 1-6, 15-19, 24-30, 38-43, 53-56, 61-67 and 75-78 stand rejected under 35 USC 102(b) as being anticipated by Cummings et al (US 6,194,867).

Claims 7-14, 20-23, 31-37, 44-52, 57-60 and 68-74 stand rejected under 35 USC 103(a) as being unpatentable over Cummings et al (US 6,194,867).

Claims 1, 38, 75, 76, 77 and 78 are the independent claims of this application.

The Examiner has kindly indicated that for purposes of appeal, the proposed amendments filed July 10, 2006 will be entered. The following comments therefore relate to the claims as amended July 10, 2006.

Each of the independent claims except claim 78 recites in one form or another, applying a pulse of charging current to the most discharged battery for at least part of a period of time less than a period of time required to fully charge the most discharged battery up to the same charge as a next most discharged battery in the system, before identifying a succeeding most discharged battery in the system.

Claim 78 recites applying pulses of changing current to individual batteries or battery packs.

Applicant's representative appointed out to the Examiner that there were three main areas of difference between the claimed invention and that of the Cummings et al reference. These are:

- the application of a pulsed charging current,

- the duration of the pulse being for a first period of time less then the time required to fully charge the most discharged battery; and

- successively identifying the most discharged battery.

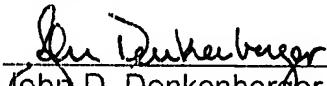
Applicants representative directed the Examiner's attention to column 6, lines 43-67 and Figure 3 of Cummings et al and submitted that one of ordinary skill in the art would consider the charge current of Cummings to be a continuous charging current rather than a pulsed charging current, and thus there is no discrete amount of time during which the charging current is applied. Applicant's representative also pointed out that from Figure 3, it appears that it is identifying the lowest discharged battery that is done continuously by Cummings et al rather than successively, as recited in applicant's claims.

With the above explanation, the Examiner appeared to better appreciate the applicant's claimed invention and agreed to allow the case because not all of the limitations of the rejected claims are disclosed by Cummings et al and therefore amended claims 1, 38, 75, 76, 77 and 78 and their dependent claims should thus comply with 35 USC 102(b).

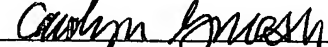
It was also implicitly agreed that there is nothing in the reference itself or in the knowledge generally available to one of ordinary skill in the art, that would motivate one of ordinary skill in the art to modify the reference or to combine the teaching of the reference with other knowledge to modify the continuous charging current and continuous state of charge monitoring described by Cummings et al into a pulse of charging current, where the pulse is applied for a specific time followed by a successive instance of identifying the most discharged battery, as recited in applicant's claims. Therefore amended claims 1, 38, 75, 76, 77 and 78 and their dependent claims are not obvious and should thus comply with 35 USC 103.

Applicant understands that a Notice of Allowance will be issued shortly. Applicant hereby petitions for a 3 month extension of time, the fees for which are hereby authorized to be charged to deposit account no. 03-1740 (COJK).

Respectfully submitted,

  
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I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Group Art Unit 2800, Examiner Edward H. Tso, at facsimile number 571-273-8300 on November 6, 2006.

Date: November 10, 2006  JDD:cg

JWK:mlm